

Uniform Guidelines for the Selection of Circuit Public Defender Selection Panels (Revised and Republished 4-25-2008)

Section 17-3-510, of the 2007 Indigent Defense Act provides that each county must elect its representative(s) from the active licensed attorneys who reside within each county to serve on its Circuit Public Defender Selection Panel, for a term of five years and Section 17-3-310(G)(7) provides, “The commission shall establish and administer the rules and procedures for selection of members to serve on the Circuit Public Defender Selection Panels, and shall establish the rules and procedures under which the selection panels shall operate.” In order to assure a fair, impartial and objective process for the selection of each circuit public defender, the following procedures have been adopted by the Commission on Indigent Defense for the Election of the Circuit Public Defender Selection Panels and the Nomination of Circuit Public Defenders.

Who Conducts the Election

The election will be conducted by the President of the county’s Bar Association, who must be an active licensed attorney residing in the county. If a county does not have a bar president, or if the bar president is unable or unwilling to conduct an election, then the election shall be conducted by an active licensed attorney residing in the county designated for such a purpose by the Executive Director of the Commission.

Methods for Conducting Election

Elections shall be conducted in one of two ways, at the discretion of the individual authorized to conduct the election. The two ways are either the “Meeting” method or the “Mail-In” method. Each method, with required certifications, is detailed below.

Pledging Prohibitions

No applicant or potential applicant for circuit public defender may seek directly or indirectly the pledge of a member or potential member of a Circuit Public Defender Selection Panel or directly or indirectly contact a Commissioner of the South Carolina Commission on Indigent Defense regarding his or her candidacy for circuit public defender.

No member of the Bar may offer directly or indirectly his or her pledge to an applicant or potential applicant at any time.

No member of a selection panel or the Commission may pledge his or her commitment to an applicant or potential applicant at anytime.

The prohibitions stated above do not prevent Bar members or the general public from communicating with panel members or the Commission in support of or opposition to an applicant once the panel has been selected and has commenced its consideration of applicants.

For purposes of these guidelines indirectly seeking a pledge means the applicant or potential applicant or someone acting on his or her behalf and/or at the request of the applicant or potential applicant; and indirectly offering a pledge means anyone acting in his or her own behalf and/or at the request of another person or persons.

If an applicant or potential applicant or any other person becomes aware of any solicitation or offering of pledges such person has an affirmative duty to inform the Commission on Indigent Defense of that activity, following the Complaint Procedures set forth in these guidelines.

Violations of these policies shall be reported immediately to the General Counsel for SCCID, following the Complaint procedures outlined below. The Commission will address any violations and/or complaints regarding the selection process in accordance with the complaint procedures therein outlined.

Complaint Procedures concerning Circuit Public Defender Selection Panels

1. Complaints regarding alleged improper acts or omissions in the election of members to a Circuit Public Defender Selection Panel and in the selection of a nominee Circuit Public Defender by a selection panel must be made in writing and provided to the General Counsel for the Commission on Indigent Defense within 10 days of discovery of any alleged improper activity. Complaints will remain confidential between complainant, SCCID General Counsel and the SCCID Executive Director pending presentment to the Commission.
2. The complaint shall list specific facts supporting each and every claim of impropriety.
3. The complaint shall list the name, address and telephone number of each and every witness complainant is aware of that has information concerning the facts of the matter.
4. The Commission has the authority to request that the general counsel interview all material witnesses. Witnesses may be asked to appear before the Commission; however witnesses who are not also the complainant cannot be compelled to appear.
5. The Commission will take such action as it deems appropriate or take no further action after review of complaint.
6. If requested, complainant (this includes any witness acting as complainant) will appear before the Commission and be prepared to answer questions concerning any allegations.
7. The complainant will not address or have any third party address the issues with individual members of the Commission. Any correspondence, communication, etc., shall be to the General Counsel of the agency, Hugh Ryan. (P.O. Box 11433, Columbia, SC 29211) (803)734-1338. hryan@sccid.sc.gov

Election Methods

1. **Meeting.** If the individual authorized to conduct the election decides to hold a meeting, the meeting must be held at a reasonable time and place. Written or electronic notice, reasonably calculated to reach all the active licensed attorneys residing within the county, must be made at least seven (7) days and no more thirty (30) days prior to the meeting. The individual authorized to conduct the election has the responsibility to ensure adequate notice to all attorneys entitled to vote and the discretion to choose the method of notice that is most appropriate. At the appointed time and place, the floor shall be opened for nominations and all those qualified to vote shall have an opportunity to nominate candidates. Upon the close of the nomination period, a secret ballot shall be conducted. No proxies shall be allowed; voters must be present to cast a ballot. All nominees, nominators and voters must certify in writing that he or she meets the eligibility requirements: (1) actually residing in the county, and (2) being an active licensed attorney in South Carolina and that they understand and have complied with the procedures concerning pledges as established in the selection guidelines. See www.sccid.sc.gov, **Uniform Guidelines for the Selection of Circuit Public Defender Selection Panels.** All nominees must further certify that they are not a solicitor, assistant solicitor, an employee of a solicitor's office, an employee of the South Carolina Prosecution Coordination Commission, a member of the judiciary or a member of the Commission on Indigent Defense. The certification form (attached) shall be exchanged for a secret ballot (attached). Each voter shall be entitled to vote for as many candidates as there are seats available to that county. Those candidates receiving the most votes shall be elected to the available seats on the selection panel. In the event of a tie, a run-off shall be immediately conducted in the same manner, but only between those nominees receiving the most votes (plurality), in a number twice that of the remaining seats available. All ballots shall be counted in an open and public procedure, and the result shall be certified, on the attached form, by the individual authorized to conduct the election and forwarded to the executive director of SCCID, P.O. Box 11433 Columbia, SC 29211 within five (5) days after the election has been completed. At all times the designee shall conduct the meeting in accordance with Robert's Rules of Order.

**Notice of Meeting to Nominate and Elect
Circuit Public Defender Selection Panel Members**

The South Carolina Legislature has passed South Carolina Code § 17-3-5 which creates a statewide Circuit Public Defender system. The Circuit Public Defender will be selected by a Circuit Public Defender Selection Panel, composed of attorneys residing in the county in the circuit. Our county bar must nominate and elect _____ members for that panel. The South Carolina Bar and the South Carolina Commission on Indigent Defense have notified me that you are an attorney residing in _____ County and therefore eligible to vote for and nominate members to the Circuit Public Defender Selection Panel.

All nominees, nominators and voters must certify in writing that they meet all eligibility requirements including: actually residing in the county, being an active licensed attorney in South Carolina and that they have complied with the prohibitions concerning pledges. See www.sccid.sc.gov, **Uniform Guidelines for the Selection of Circuit Public Defender Selection Panels**. All nominees must further certify that they are not a solicitor, assistant solicitor, an employee of a solicitor's office, an employee of the South Carolina Prosecution Coordination Commission, a member of the judiciary or a member of the Commission on Indigent Defense. Each voter shall be entitled to vote for as many candidates as there are seats available to that county.

**Nominations and elections will take place on _____, 20_ at _____
_____ at _____, M. Election will be by secret ballot and
the counting of the ballots will occur immediately after election.**

Signature, County Bar President
or SCCID Designee

**Certification of Eligibility to Vote and/ or be Nominated for the
Circuit Public Defender Selection Panel Members**
(to be exchanged for a secret ballot)

I, _____, hereby swear and affirm that, I am an active licensed attorney residing in _____ County and am eligible to vote for my county's Circuit Public Defender Selection Panel Members. I understand that if I am a solicitor, assistant solicitor, an employee of a solicitor's office, an employee of the South Carolina Prosecution Coordination Commission, a member of the judiciary or a member of the Commission on Indigent Defense I am not eligible for nomination to the Circuit Public Defender Selection Panel. I understand and have complied with the prohibitions concerning pledges as established in the selection guidelines.

Signature

Bar Number

SWORN TO BEFORE me this day of _____, 2008.

Notary Public for South Carolina
My commission expires:

Secret Ballot for Circuit Public Defender Selection Panel Members

The South Carolina Legislature has passed South Carolina Code § 17-3-5 which creates a statewide Circuit Public Defender system. The Circuit Public Defender will be selected by a Circuit Public Defender Selection Panel, composed of members of the county bars in the circuit.

All nominees, nominators and voters must certify in writing that they meet all eligibility requirements including: actually residing in the county, and being an active licensed attorney in South Carolina and that they understand and have complied with the procedures concerning pledges as established in the selection guidelines. All nominees must further certify that they are not a solicitor, assistant solicitor, an employee of a solicitor's office, an employee of the South Carolina Prosecution Coordination Commission, a member of the judiciary or a member of the Commission on Indigent Defense. Each voter shall be entitled to vote for as many candidates as there are seats available to that county.

The nominees will be announced by the individual authorized to conduct the election at the close of nominations and prior to the receipt of these ballots. You may vote for ____ individuals, which is the number of members our county will have on the panel. Please write the name(s) of your choice(s):

**Certification of Proper Election of Circuit Public Defender
Selection Panel Members**

I, _____, hereby swear and affirm that the election of panel members for _____ County's seats on the _____ Circuit's Public Defender Selection Panel were conducted in accordance with the Uniform Guidelines for the Selection of Circuit Public Defenders. I further swear and affirm that all votes were counted in an open and public process and that those elected to the panel had the proscribed plurality of votes, and that all voters and nominees were in fact eligible to vote and had certified in writing their eligibility

Signature of the Individual
Authorized to Conduct the Election

Bar Number

SWORN TO BEFORE me this day of _____, 2008.

Notary Public for South Carolina
My commission expires:

2. **Mail-in.** If the individual authorized to conduct the election decides to conduct a mail-in election, written notice, reasonably calculated to reach all the active licensed attorneys residing within the county, must be sent by U.S. mail at least seven (7) days and no more thirty (30) days prior to the close of nominations. It shall be the responsibility of the individual authorized to conduct the election to determine the list of attorneys who should receive the notice. Nominations shall be received according to a procedure described in the attached notice. Nominators must certify in writing that he or she meets the eligibility requirements: (1) actually residing in the county, and (2) being an active licensed attorney in South Carolina and that they understand and have complied with the procedures concerning pledges as established in the selection guidelines. See www.sccid.sc.gov, **Uniform Guidelines for the Selection of Circuit Public Defender Selection Panels** In order for a nominee to be placed on the ballot, the nominee must certify in writing that he or she meets all eligibility requirements and must further certify that he or she is not a solicitor, assistant solicitor, an employee of a solicitor's office, an employee of the South Carolina Prosecution Coordination Commission, a member of the judiciary or a member of the Commission on Indigent Defense. All nominees shall be listed on a ballot and the attached ballot shall be sent by U.S. Mail to all attorneys eligible to vote and shall state the directions and timeframe not to be shorter than ten (10) days or longer than twenty (20) days for return. Each voter shall be entitled to vote for as many candidates as there are seats available to that county. Those candidates receiving the most votes (plurality) shall be elected to the available seats on the selection panel. In the event of a tie a run-off shall be conducted in the same manner, but the run-off ballot shall only list those nominees receiving the most votes, in a number twice that of the remaining seats available. All ballots shall contain a certification of eligibility that all voters must sign. All ballots shall be counted in a transparent procedure and the result certified, on the attached form, by the individual authorized to conduct the election and forwarded to the Executive Director of SCCID, P.O. Box 11433 Columbia, SC 29211 within five (5) days after the election has been completed.

Nomination of Circuit Public Defender Selection Panel Members

This nomination form may be returned by U.S. Mail to the address shown below or faxed to the telephone number shown below.

The South Carolina Legislature has passed South Carolina Code § 17-3-5 which creates a statewide Circuit Public Defender system. The Circuit Public Defender will be selected by a Circuit Public Defender Selection Panel, composed of members of the county bars in the circuit. Our county bar must nominate and elect _____ members for that panel. The South Carolina Bar and the South Carolina Commission on Indigent Defense have notified me that you are an attorney residing in _____ County and therefore eligible to nominate and vote for members to the Circuit Public Defender Selection Panel for this county.

All nominees, nominators and voters must certify in writing that they meet the eligibility requirements which are: (1) actually residing in the county and (2) being an active licensed attorney in South Carolina and that they understand and have complied with the procedures concerning pledges as established in the selection guidelines. **See www.sccid.sc.gov, Uniform Guidelines for the Selection of Circuit Public Defender Selection Panels**. All nominees must further certify that they are not a solicitor, assistant solicitor, an employee of a solicitor's office, an employee of the South Carolina Prosecution Coordination Commission, a member of the judiciary or a member of the Commission on Indigent Defense. All nominees shall be listed on a ballot and after the nomination period has closed the ballot will be sent to all those eligible to vote. Each voter shall be entitled to vote for as many candidates as there are seats available to this county.

In order to nominate individuals for election, please return this form to me, as shown below, with the name of the individual/s you wish to nominate, not to exceed the number of members that this county can elect to the Panel, within ten (10) days of receiving this form. The nomination period will close and the nominations will be opened on _____, 20__ at _____ at _____, M. Anyone eligible to vote can view the opening of the nominations, I and at least one other attorney who is eligible to vote will be present to record the nominations.

I nominate: _____

I certify that I am eligible to nominate the above individual(s) based on the requirements above.

Signature

Bar Number

If you wish to return this nomination form
by U.S. Mail, please address it as follows:

by fax, send it to the following:

**Certification of Eligibility to be Nominated to the Circuit
Public Defender Selection Panel**

I, _____, hereby swear and affirm that, I am an active licensed attorney residing in _____ County and that I am eligible to be nominated for my county's Circuit Public Defender Selection Panel. I further swear and affirm that I am not a solicitor, assistant solicitor, an employee of a solicitor's office, an employee of the South Carolina Prosecution Coordination Commission, a member of the judiciary or a member of the Commission on Indigent Defense. . I understand and have complied with the prohibitions concerning pledges as established in the selection guidelines.

Signature

Bar Number

SWORN TO BEFORE me this day of _____, 2008.

Notary Public for South Carolina
My commission expires:

Mail-In Ballot for Circuit Public Defender Selection Panel Members

The South Carolina Legislature has passed South Carolina Code § 17-3-5 which creates a statewide Circuit Public Defender system. The Circuit Public Defender will be selected by a Circuit Public Defender Selection Panel, composed of members of the county bars in the circuit. The South Carolina Bar and the South Carolina Commission on Indigent Defense have notified me that you are an attorney residing in this county and therefore are eligible to vote for members to the Circuit Public Defender Selection Panel.

All nominees, nominators and voters must certify in writing that they meet all eligibility requirements including: actually residing in the county, and being an active licensed attorney in South Carolina and that they understand and have complied with the procedures concerning pledges as established in the selection guidelines. All nominees must further certify that they are not a solicitor, assistant solicitor, an employee of a solicitor's office, an employee of the South Carolina Prosecution Coordination Commission, or a member of the judiciary or a member of the Commission on Indigent Defense. Each voter shall be entitled to vote for as many candidates as there are seats available to that county.

The following individuals have been nominated to serve as members on the Circuit Public Defender Selection Panel. You may vote for ____ individuals, which is the number of members our county will have on the panel. Please circle the name(s) of your choice(s):

[Insert the names of all nominees here.]

Certification of Eligibility to Vote

I, _____, hereby swear and affirm that, I am an active licensed attorney residing in _____ County and am eligible to vote for my county's Circuit Public Defender Selection Panel Members. I further swear and affirm that if I am nominee, I am not a solicitor, assistant solicitor, an employee of a solicitor's office, an employee of the South Carolina Prosecution Coordination Commission, a member of the judiciary or a member of the Commission on Indigent Defense. I understand and have complied with the prohibitions concerning pledges as established in the selection guidelines.

Signature

Bar Number

SWORN TO BEFORE me this day of _____, 2008.

Notary Public for South Carolina
My commission expires:

**Certification of Proper Election of Circuit Public Defender
Selection Panel Members**

I, _____, hereby swear and affirm that the election of panel members for _____ County's seats on the _____ Circuit's Public Defender Selection Panel were conducted in accordance with the Uniform Guidelines for the Selection of Circuit Public Defenders. I further swear and affirm that all votes were counted in an open and public process and that those elected to the panel had the proscribed plurality of votes, and that all voters and nominees were in fact eligible to vote and had certified in writing their eligibility.

Signature of the Individual
Authorized to Conduct the Election

Bar Number

SWORN TO BEFORE me this day of _____, 2008.

Notary Public for South Carolina
My commission expires: